



Signed and Filed: February 3, 2023

*Dennis Montali*

DENNIS MONTALI  
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

In re: ) Bankruptcy Case  
PG&E CORPORATION, ) No. 19-30088-DM  
- and - ) Chapter 11  
PACIFIC GAS AND ELECTRIC COMPANY, ) Jointly Administered  
Reorganized Debtors. )  
☐ Affects PG&E Corporation )  
☐ Affects Pacific Gas and )  
Electric Company )  
☒ Affects both Debtors )  
\* All papers shall be filed in )  
the Lead Case, No. 19-30088 (DM). )

**ORDER DENYING MOTIONS TO ALLOW LATE CLAIMS**

On January 10 and 25, 2023, the court held hearings on a number of motions to deem late filed proofs of claim as timely ("Late Claim Motions"). The individual claimants' information associated with the Late Claim Motions are attached to this Order as an Exhibit.

All movants are Wildfire Claimants, as defined below. While the Fire Victim Trust ("FVT") objected to each of the Late

1 Claim Motions individually (Dkts. 13385; 13353; 13351; 13388;  
2 13336; 13372; 13407; 13399; 13424; 13429; 13431; 13433; 13435)  
3 ("Objections"), the court issues this Order addressing all of  
4 the Late Claim Motions in the style of an omnibus objection.  
5 See Fed. R. Bankr. Pro. 3007(d)(4) and (f). For the reasons  
6 explained below, the court sustains the FVT's Objections and  
7 denies the Late Claim Motions.

8 **I. History of Claims Bar Date**

9 No claims bar date was set for any creditor at the outset  
10 of these bankruptcy cases, which were initiated on January 29,  
11 2019. On May 1, 2019, now-Reorganized Debtors PG&E Corporation  
12 and Pacific Gas and Electric Company ("Debtors") originally  
13 proposed a claims bar date of September 16, 2019 for victims of  
14 the wildfires that ravaged various parts of Northern California  
15 in 2015, 2017, and 2018 ("Wildfire Claimants") (Dkt. 1784).  
16 Debtors also proposed a robust supplemental notice plan starting  
17 at least 95 days prior to that bar date to ensure that Wildfire  
18 Claimants, many of whom had almost certainly been displaced by  
19 the wildfires, would receive notice of the claims bar date.

20 The proposed claims bar date was hotly contested (See  
21 objections to the proposed claims bar date at Dkts. 2043, 2238,  
22 2239, 2240, 2242, 2248, 2306, 2307, 2308, 2316, 2321, 2324,  
23 2326, 2346, 2453), with the Tort Claimants Committee requesting  
24 an alternative claims bar date of January 31, 2020. Debtors  
25 subsequently amended the proposed claims bar date to October 21,  
26 2019.

27 At a hearing on June 26, 2019, the court granted the  
28 Debtors' modified claims bar date proposal. The court's Order

1 (Dkt. 2806) establishing the bar date incorporated the Debtors'  
2 Revised Notice Procedures that included: mailed notices (as is  
3 typical and required in all bankruptcy cases); email notices;  
4 notice via a variety of print media publications; online  
5 advertisements; social media advertisements; local television  
6 and radio advertisements in both English and Spanish; national  
7 television advertisements to reach those who may have moved out  
8 of state; a dedicated website for Wildfire Claimants; and a  
9 toll-free phone number for Wildfire Claimants. This multi-  
10 pronged approach targeted, in descending order: those still  
11 living in affected areas of Northern California, the rest of  
12 California, and the rest of the nation.

13 On November 11, 2019, the court entered the *Order Extending*  
14 *Bar Date for Wildfire Claimants and Appointing Claims*  
15 *Representative* (Dkt. 4672), extending the bar date specifically  
16 for Wildfire Claimants to December 31, 2019, and appointing a  
17 Claims Representative to conduct further outreach and assist  
18 Wildfire Claimants in filing claims. By the end of the extended  
19 claims bar date, 82,692 Wildfire Claimants filed timely proofs  
20 of claim.

21 After the extended bar date passed, the FVT took an  
22 apparent stance of acquiescence or non-opposition to requests  
23 from Wildfire Claimants to allow late claims. In 2020, 55 late  
24 claims were filed and were not opposed. In 2021, 22 late claims  
25 were filed and were not opposed.

26 Beginning in late 2022, the number of late claims  
27 dramatically increased, which prompted the FVT's Objections.  
28 That response, made in open court and in several filings, was

1 that the FVT would no longer take a liberal non-opposition  
2 stance to late claims filed after September 30, 2022, and that  
3 "[t]he Trust's policy of non-opposition was never a guarantee  
4 that every late claim motion would be unopposed, and the  
5 Trustee's statements regarding the need to reconsider that  
6 policy were intended to clarify this and alert claimants and  
7 counsel to the Trust's transition to stricter review of late  
8 claim motions."

## 9 **II. Discussion**

10 A bankruptcy court may, on motion of a claimant, deem a  
11 late claim to be timely filed if the delay "was the result of  
12 excusable neglect." Fed. R. Bankr. Pro. 9006(b)(1). The  
13 decision regarding whether a late claim was the result of  
14 excusable neglect "is at bottom an equitable one, taking account  
15 of all relevant circumstances surrounding the party's omission."  
16 *Pioneer Inv. Services Co. v. Brunswick Associates Ltd.*  
17 *Partnership*, 507 U.S. 380, 395 (1993). Some circumstances  
18 include "the danger of prejudice to the debtor, the length of  
19 the delay and its potential impact on judicial proceedings, the  
20 reason for the delay, including whether it was within the  
21 reasonable control of the movant, and whether the movant acted  
22 in good faith." *Id.* The court may weigh each these factors in  
23 its discretion.

24 There is no argument regarding the good faith of any of the  
25 parties who filed the Late Claim Motions. Nor does either the  
26 court or the FVT question the nature and extent of the damages  
27 alleged by movants. The proceeding that may be impacted by  
28 allowance of the Late Claims Motions is the general

1 administration of the FVT in determining claims and making  
2 distributions thereon.

3 The only equitable factors the court considers here are the  
4 prejudice to the FVT<sup>1</sup> and whether the delay was in reasonable  
5 control of the movants.<sup>2, 3</sup>

6 First, the court finds that granting the Late Claim Motions  
7 would prejudice the FVT and other Wildfire Claimants who have  
8 timely filed proofs of claim. According to the FVT, the Trust  
9 simply is not fully funded, the stock contributed to the FVT by  
10 the Debtors is not performing as well as expected (despite  
11 recent increases in value), and there may not be enough money in  
12 the Trust to administer 100% payments to Wildfire Claimants who  
13 timely filed proofs of claim, let alone those requesting to have  
14 their late claims deemed timely now. The FVT may also be  
15 prejudiced by the additional expenditures of time and effort  
16 required of the FVT and its administrators to recalculate the

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18 <sup>1</sup> The FVT is the representative of each of the Debtors' estates  
19 regarding administering, objecting to, and settling the claims  
20 of Wildfire Claimants pursuant to the Paragraph 18(e)(iii) of  
21 the court's Confirmation Order (Dkt. 8053).

22 <sup>2</sup> An additional argument presented at the hearing on January 10,  
23 2023 posited that a recent amendment to Federal Rule of  
24 Bankruptcy Procedure 3002(c)(3) may more easily allow for the  
25 allowance of late-filed claims. The amended Rule does not apply  
26 to claims in chapter 11 cases—only those claims filed  
27 in bankruptcies filed under chapters 7, 12, or 13. Late claims  
28 filed in bankruptcies filed under chapter 11 are governed by  
Federal Rule of Bankruptcy Procedure 3003, which has not been  
recently amended.

<sup>3</sup> Another suggestion also presented at the hearing on January  
10, 2023 proposed the creation of a new "pool" with cap on  
distributions for late claimants. The court has no authority to  
append the process of the FVT, which was created as part of a  
hard-fought confirmation process, in such a manner.

1 projections and calculations made to ensure an equal pro rata  
2 distribution to all Wildfire Claimants, including those already  
3 paid. While each of the Late Claim Motions stresses the minimal  
4 impact any individual claim may have on the administration of  
5 the FVT, the court must balance the equities affecting the FVT  
6 as a whole. Taking the Late Claim Motions in the aggregate, the  
7 impact on administration is more than de minimis and would  
8 prejudice the FVT.

9       Next, the court finds that no movant has described  
10 circumstances that would explain why the failure to file a claim  
11 for over two and a half years constitutes excusable neglect.  
12 Almost uniformly, each movant describes circumstances that  
13 amount to a lack of realization that their particular  
14 circumstances could be compensated, or skepticism regarding the  
15 claims process generally, but not lack of notice regarding the  
16 extended bar date.

17       Due process requires notice of the opportunity to file a  
18 claim. That notice was provided to movants and has not been  
19 shown to be deficient under the law or in the context of these  
20 cases. Due process does not require that each claimant be made  
21 aware that his or her particular damages may constitute the type  
22 of claim that might have been filed.

23       One movant who chose to speak at the hearing on January 25  
24 described potential medical issues that did not manifest  
25 themselves until after the extended claims bar date had passed.  
26 However, the underlying claim and motion (Dkt. 13404) allege  
27 injuries, such as smoke damage that were felt immediately after  
28 the fire and also describe the same issue detailed by most other

1 movants as to why a claim was not timely filed; a belief that  
2 the particular damages suffered by movant and her family would  
3 not have been compensated.<sup>4</sup>

4 The court reiterates, as it explained in its prior Order  
5 Denying Motions to Allow Late Claims (Dkt. 13377), that the  
6 Debtors engaged in a comprehensive campaign to provide notice to  
7 Wildfire Claimants in the North Bay, California, and across the  
8 United States. The Debtors could not control whether claimants  
9 chose not to believe or to heed those notices, nor was it the  
10 Debtors' duty to ensure every known and unknown Wildfire  
11 Claimant's full understanding of every type of injury that could  
12 be compensated via the proof of claim process. It also does not  
13 appear there was a widespread misunderstanding regarding what  
14 types of injury could be compensated via a proof of claim: every  
15 type of injury described in the Late Claim Motions is listed as  
16 a checkbox on the Proof of Claim form for Wildfire Claimants,  
17 and all were listed as injuries by Wildfire Claimants who timely  
18 filed proofs of claim.

19 **III. Conclusion**

20 For the reasons stated above the court hereby SUSTAINS the  
21 Objections of the FVT and DENIES the Late Claim Motions. The  
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23 <sup>4</sup> In the Ninth Circuit, even potential claims that might be in  
24 the fair contemplation of the parties represents a contingent  
25 claim subject to the established claims bar date of a  
26 bankruptcy. See *In re Jensen*, 995 F.2d 925, 929-30 (9<sup>th</sup> Cir.  
27 1993). While the court makes no determination whether the  
28 issues described by movant would be deemed a pre-petition  
contingent claim, the court still notes that injuries that do  
not become apparent until much later are not necessarily excused  
from the extended claims bar date.

1 Late Claim Motions shall not be deemed timely filed and are thus  
2 disallowed.

3 **\*\*END OF ORDER\*\***  
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COURT SERVICE LIST

Frewoini Garcia  
1785 Las Pravadas Ct.  
Santa Rosa, CA 95409  
[lmsmithson@hotmail.com](mailto:lmsmithson@hotmail.com)

Aara Pedersen  
1025 Calistoga Rd  
Santa Rosa, CA 95409  
[pedersenrealty@gmail.com](mailto:pedersenrealty@gmail.com)

Ricardo Mejia, Jr. et al.  
512 Jacklondon Dr.  
Santa Rosa, CA 95409  
[Rcharms87@gmail.com](mailto:Rcharms87@gmail.com)

Brandon Boone  
5550 Marit Dr  
Santa Rosa, CA 95409  
[boonebrando@hotmail.com](mailto:boonebrando@hotmail.com)

Patrick Cory Smithson  
6293 Melita Road  
Santa Rosa, CA 95409  
[ptrcksmithson@gmail.com](mailto:ptrcksmithson@gmail.com)

Amanda Hackett  
806 Bennett Valley Rd  
Santa Rosa, CA 95404  
[Amandavh86@gmail.com](mailto:Amandavh86@gmail.com)

Daniel Erdman  
Julianne Erdman  
5960 Erland Road  
Santa Rosa, CA 95404  
[dcerdman@gmail.com](mailto:dcerdman@gmail.com)

Eric Pedersen  
806 Bennett Valley Rd  
Santa Rosa, CA 95404  
[Whatsuperic2002@yahoo.com](mailto:Whatsuperic2002@yahoo.com)

Shannon Palmer  
1385 Baird Road  
Santa Rosa, CA 95409  
[Shanpalm18@gmail.com](mailto:Shanpalm18@gmail.com)

Patrick Pedersen  
5511 Monte Verde Drive  
Santa Rosa, CA 95409  
[pjpracer@yahoo.com](mailto:pjpracer@yahoo.com)

Jennifer Perkins  
539 Calistoga Road  
Santa Rosa, CA 95409  
[jenniferleighperkins@gmail.com](mailto:jenniferleighperkins@gmail.com)